

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE JOINT RESOLUTION NO. 56

97TH GENERAL ASSEMBLY

4458H.02P

D. ADAM CRUMBLISS, Chief Clerk

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment to article I of the Constitution of Missouri, and adopting one new section relating to parental rights.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2014, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article I of the Constitution of the state of Missouri:

Section A. Article I, Constitution of Missouri, is amended by adding one new section, to be known as section 35, to read as follows:

Section 35. 1. That parents have a fundamental right to exercise exclusive control over the care, custody, and upbringing of their minor children, including all decisions involving the discipline, education, religious instruction, health, medical care, place of habitation, and general well-being of such minor children.

2. Parents have a responsibility to ensure that their minor children receive a program of academic instruction which they regularly attend while the child is of an age prescribed by law for school attendance. Parents have the right to choose to educate their children in public schools, private schools, parochial schools, parish schools, or in-home education to prepare them for future obligations in life.

3. Neither the state nor any political subdivision, nor any agency, entity, or person acting on behalf of the state or any political subdivision, shall dictate through rule or regulation or other device the content of curriculum to be used by private, parochial, or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 parish schools, or for in-home instruction, with the exception of laws which may require
14 instruction in the United States Constitution and this constitution. Neither the state nor
15 any political subdivision, nor any agency, entity, or person acting on behalf of the state
16 shall require any private, parochial, or parish school to include in its curriculum any
17 concept, topic, or practice in conflict with the school's religious doctrines or beliefs; nor
18 shall the state or any political subdivision, or any agency, entity, or person acting on behalf
19 of the state require a parent providing in-home education to include in a student's
20 curriculum any concept, topic, or practice in conflict with the parent's religious belief.

21 4. Neither the state nor any political subdivision, nor any agency, entity, or person
22 acting on behalf of the state or any political subdivision, shall act to deny or impair the
23 fundamental right of parents to direct the upbringing, education, and care of their
24 children. However, the fundamental right of a parent to control and direct the care,
25 custody, and upbringing of a minor child may be modified by a court of law when a parent
26 has been found guilty of or pleads guilty to a crime of violence against a child, abuse of a
27 child, kidnapping of a child, abandonment of a child, endangering the welfare of a child,
28 sexual abuse of a child, sexual conduct or any other sexual offense against a child or
29 involving a child, production, distribution, or possession of child pornography, human
30 trafficking, domestic violence, or criminal nonsupport; or when a parent has demonstrated
31 a consistent pattern of unlawful conduct which renders that parent unfit to care
32 appropriately for the needs of a child; or when a parent has been found by a court of law
33 by a preponderance of the evidence to have committed child abuse, child neglect or medical
34 neglect, or been found responsible for jeopardizing the life, health and safety of a child; or
35 as a result of adoption, guardianship, paternity, child abandonment, mental incompetency,
36 or marital dissolution proceedings; or when a child has been conceived and born as a result
37 of an act of rape; or through the voluntary consent of the parent of a child.

38 5. Nothing in this section shall be construed to diminish the authority of peace
39 officers and law enforcement officials to take necessary actions to safeguard the welfare
40 of a child whose life, health, or safety is in jeopardy; or of courts of law to provide for
41 temporary custody of a child in emergency situations to protect the life, health, and safety
42 of such child; or of juvenile courts to assume jurisdiction over a minor child who has been
43 charged with or found guilty of or pleads guilty to offenses against the law, is engaged in
44 actions injurious to the welfare of the child or others, or is beyond the control of the
45 parents; or of courts of law to issue child protection orders for a child whose life, health,
46 or safety is in jeopardy; or of state authorities to investigate allegations of child abuse, child
47 neglect, or medical neglect in accordance with this section.

48 6. Nothing contained in this section shall be construed to confer upon a parent the
49 right to compel a minor child to undergo an abortion.

50 7. Nothing contained in this section shall be construed to empower a parent to
51 enroll his or her minor child in a public school outside of the area of that child's residence,
52 except as otherwise provided by law.

53 8. Nothing contained in this section shall be construed to confer authority on a
54 parent of a public school student to dictate to school administrators the curriculum or
55 program choices, or levels of service, to be provided to the parent's minor child; provided
56 that students shall be afforded the religious freedoms recognized in Section 5 of this
57 Article.

58 9. Nothing in this section shall create any new or expanded right under Article IX
59 of this constitution, or create any cause of action to force the state or any political
60 subdivision of the state to provide funding pursuant to Article IX of this constitution.

61 10. As used in this section, the following terms shall mean:

62 (1) "Child abuse", any physical injury, sexual abuse, or emotional abuse inflicted
63 on a child other than by accidental means by those responsible for the child's care, custody,
64 and control; except that discipline, including spanking, administered in a reasonable
65 manner, shall not be construed to be abuse;

66 (2) "Child neglect", failure to provide by those responsible for the care, custody,
67 and control of the child the necessary shelter, nutrition, clothing, or medical care, or
68 education in a public, private, or in-home education setting, to the degree that the child is
69 harmed by such neglect or at imminent risk of such harm;

70 (3) "Jeopardizing the life, health, and safety of a child", any action or failure to act
71 wherein a parent knowingly creates a substantial risk to the life, body, or health of such
72 parent's child; or any deliberate acts of the parent or acts of another of which the parent
73 knew or should have known which subject the parent's child to a substantial risk of
74 physical or emotional harm; or any action wherein a parent encourages, aids, or causes a
75 child to engage in conduct which violates the law;

76 (4) "Medical neglect", the denial or deprivation of medical or surgical treatment
77 or intervention which is necessary to remedy or ameliorate a medical condition which is
78 life-threatening or would result in serious injury;

79 (5) "Mental incompetency", a consistent or recurring lack of mental capacity or
80 mental capability which prevents a parent from providing necessary care, nutrition,
81 clothing, habitation, health care, or education to the child of such parent;

82 **(6) "Parent", a biological parent of a child, including the husband of a natural**
83 **mother at the time the child was conceived, or the parent of a child by adoption, or as**
84 **otherwise provided by law.**

 Section B. Pursuant to chapter 116, RSMo, and other applicable constitutional provisions
2 and laws of this state allowing the general assembly to adopt ballot language for the submission
3 of a joint resolution to the voters of this state, the official ballot title of the amendment proposed
4 in section A shall be as follows:

5 "Shall the Missouri Constitution be amended to ensure:
6 That parents have a fundamental right to control and direct the care, education, and upbringing
7 of their minor children; and that courts of law and law enforcement officers may act to protect
8 the health, safety, and welfare of minor children?"

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